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ENVIRONMENTAL PROTECTION DIVISION
DEPARTMENT OF NATURAL RESOURCES
STATE OF GEORGIA

IN RE: Hercules Incorporated #
Brunswick # ORDER NO. EPD-WQ-3129
Glynn County, Georgia #

CONSENT ORDER

WHEREAS, Hercules Incorporated, (hereinafter the "Company") presently owns and operates a chemical production company in Brunswick Georgia; and

WHEREAS, on September 20, 1993 the Director (hereinafter the "Director") of the Georgia Environmental Protection Division (hereinafter the "Division") issued to the Company National Pollutant Discharge Elimination System Permit No. GA0003735 (hereinafter the "Permit") for the Company's wastewater discharge to Dupree Creek; and

WHEREAS, O.C.G.A. § 12-5-29(a) of the Georgia Water Quality Control Act (hereinafter the "State Act") makes it unlawful to use any of the waters of the State for the disposal of sewage, industrial wastes or other wastes, except in such a manner as to conform to and comply with the provisions of the State Act and all rules, regulations, orders and permits established under the provisions of the State Act; and

WHEREAS, the Director alleges that Hercules was in violation of the average daily toxaphene limit for six months, covering a period of time from February 1994 through April 1995; and

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WHEREAS, the Director alleges that these violations are considered to be significant, given the premise that the permit limit for toxaphene is below detection limits and toxaphene was found in detectable concentrations intermittently during the months in question; and

WHEREAS, the Division, on January 18, 1995, sent the Company a Notice of Violation citing toxaphene permit violations; and

WHEREAS, the Director alleges that as early as November 1993, a grab sample of the permitted discharge taken by the Division and split with the Company indicated detectable concentrations of toxaphene; and

WHEREAS, the Director and the Company desire to resolve and settle the matter of alleged NPDES permit violations prior to the date of this Order which involve the toxaphene parameters and limitations in the Permit; and

WHEREAS, this Order shall not constitute a finding or adjudication of violation of any State or Federal law, rules or regulations by the Company, nor does the Company, by its consent to this Order, admit any liability to any third party or parties; and

WHEREAS, the Director agrees that execution of this Order will fully and finally resolve all matters involving alleged violations of the toxaphene limitations and parameters in the Permit arising prior to the date of the Order;

NOW, THEREFORE, the Director hereby ORDERS and the Company hereby AGREES to the following:

1. The Company shall pay \$14,580.00, as a negotiated settlement under provisions of the Georgia Water Quality Act. The payment shall be due within thirty (30) days of execution of the Order.

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2. The N Street culvert between Watkins and Cook Streets is scheduled to be replaced by December 31, 1995.
 3. **Chronic biomonitoring shall be conducted on the plant ditch outfall using the Inland Silverside minnow. Test procedures shall adhere to the U. S. EPA's Short Term Methods for Estimating the Chronic Toxicity of Effluent in Receiving Water to Marine and Estuarine Organisms.** Bioassays shall be conducted on a ~~continuous~~ **basis** utilizing definitive testing. If a No Observed Effect Concentration (NOEC) of less than 25 percent is determined, a follow-up biomonitoring test shall be repeated the next month. **Samples should also be analyzed for toxaphene during the timeframe in which samples are collected for toxicity testing in conformance with monitoring requirements in the NPDES permit.** The results of the toxaphene analysis shall be submitted with the results of the bioassay. Bioassay results shall be submitted to the Division no later than fifteen (15) days following the end of the quarter.
 4. Two consecutive months of NOEC's less than 25 percent will trigger an upstream investigation to determine the source or sources of the toxicity. Results of this investigation shall be reported to the Division within 90 days after the Company receives results indicating a second consecutive NOEC of less than 25 percent. Based upon the results of the upstream investigation, the Division may require the Company to submit, within 90 days of notification, a Toxicity Reduction Evaluation, as described in Part III C. 2. of the NPDES permit. In determining whether or not to require a Toxicity Reduction Evaluation, the Division shall consider whether it

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is likely that the source of toxicity will be eliminated by the replacement of the N Street culvert. If the Division determines that it is likely that the source of any toxicity will be eliminated by replacement of the culvert, the Division will evaluate at least two consecutive periods of bioassays before deciding whether or not a source of toxicity remains and whether or not a Toxicity Reduction Evaluation is required; these additional bioassays will be conducted after the culvert is replaced.

5. Replacement of the N Street culvert is scheduled to be complete by December 31, 1995. **Replacement of the Highway 17 culvert is expected to be complete by December 31, 1996.** Until the N Street culvert and the Highway 17 culvert have been replaced, the toxaphene limit will be defined as the NOEC of 25 percent, based upon quarterly whole effluent toxicity tests described in Item 3. A NOEC less than 25 percent in two consecutive monthly tests, as described in Item 4, shall be considered a violation. Pending the satisfactory results of the biomonitoring tests up to the time that the culvert replacements are completed, biomonitoring frequency and testing may be modified to correspond with requirements in Part III B. 2. of the NPDES permit.
6. **The Company shall submit a plan of study to the Division for examining toxaphene residuals in fish in Terry and Dupree Creeks. The primary purpose of this study will be to determine whether toxaphene discharges are affecting the edibility of fish, such as mullet, utilizing the current federal guidelines for permissible toxaphene residues in fish.** The plan of study shall delineate sampling period, target fish, method of compositing samples, how much sample is collected, preservation, types

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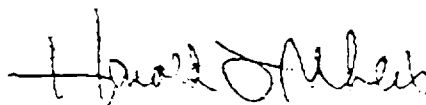
of samples to be analyzed, as well as other appropriate factors. This plan of study shall be submitted to the Division for review and approval by June 30, 1995.

7. Prior to the Department of Transportation (DOT) replacement of the U. S. Highway 17 culvert, scheduled in early 1996, the plant ditch outfall sampling point and monitoring station shall be relocated to the upstream side of the underflow/overflow weir. During the construction, the total suspended solids (TSS) limits for the plant ditch will be defined as the requirement to monitor for TSS and report the TSS measurements. If the TSS exceeds a daily maximum discharge of 18,000 pounds or a daily average discharge of 9,000 pounds, and such level is caused by construction activities involved with replacing the U. S. Highway 17 culvert, the Company shall provide a written explanation of such incident with its monthly operation monitoring reports. The Director may, in his discretion, take further appropriate enforcement action for TSS exceedences not caused by construction activity.
8. This Consent Order shall be effective through December 31, 1996, or until the replacement of the N Street Ditch and U. S. Highway 17 culverts are complete. If there are still unresolved matters, such as a delay in constructing the culverts, the Order may be amended to extend the expiration date or make other appropriate changes.

By agreement of the parties, this Order shall be considered final and effective immediately, and shall not be appealable, and the Company does hereby waive any hearing on the terms and conditions of same.

It is so ORDERED, CONSENTED and AGREED to this 24th. day of

May, 1995.



HAROLD F. REHEIS, Director
Environmental Protection Division
Department of Natural Resources
State of Georgia

Hercules Incorporated

DTS
5/17/95

By: C. Daryl Miller

Title: PRESIDENT, CAPITAL
SPECIALTIES

Georgia Department of Natural Resources

205 Butler Street, S.E., Suite 1152 East Floyd Tower, Atlanta, Georgia 30334

Lonice C. Barrett, Commissioner

Harold F. Reheis, Director

David Word, Assistant Director

Environmental Protection Division

404/656-4713

May 24, 1995

RECEIVED 5/30/95 *hjl*

Mr. Kenneth J. DeVore
Technical Superintendent
Hercules Incorporated
P. O. Box 1517
Brunswick, GA 31521-1517

Re: NPDES Permit No. GA0003735
Consent Order No. EPD-WQ-3129

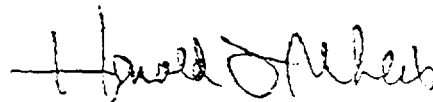
Dear Mr. DeVore:

The Georgia Environmental Protection Division has received the signed Consent Order from Hercules Incorporated. Enclosed is a copy of the executed order. The company will be expected to meet all of the conditions of this order.

We also acknowledge your request made in your May 5, 1995 letter to direct up to eighty percent of the monetary settlement in Item No. 1 of the order to the Glynn County Local Emergency Planning Committee. In almost all cases, we have been depositing monetary settlements from enforcement actions into the State treasury general fund, to be available for appropriation by the General Assembly to the Division for inclusion in the hazardous waste trust fund. We regard this to be the most appropriate use for the monetary settlement in this enforcement case.

Your cooperation in this matter is appreciated.

Sincerely,



Harold F. Reheis
Director

HFR:ikk
Enclosure

cc: Alan Gantzhorn